

<p style="text-align: center;">DEPARTMENT FOR MENTAL HEALTH AND MENTAL RETARDATION SERVICES</p> <p style="text-align: center;">STANDARDS OF OPERATIONS</p>	<p>Policy Number</p> <p style="text-align: center;">DMHMRS 04-01</p>	<p>Total Pages</p> <p style="text-align: center;">3</p>
	<p>Date Issued</p> <p>April 14, 2003</p>	<p>Effective Date</p> <p>April 14, 2003</p>
<p>References</p> <p>KRS 61.872, 61.876, 61.880, 61.884 § 164.524</p>	<p>Subject</p> <p>Open Records Request</p>	

Statement of Policy and Purpose

It shall be the practice of the Department for Mental Health and Mental Retardation Services (DMHMRS) to maintain records on individual clients for the purpose of monitoring progress, services and programs. It shall be the policy of DMHMRS to allow access and inspection by the individual clients and establish the appropriate procedure for processing requests for records.

Procedure

- A. DMHMRS shall permit an individual to request, in writing, access to inspect or obtain a copy of the protected health information (PHI) about the individual that is maintained. A written response to the request shall be no later than three (3) days after receipt of the request.
 1. When DMHMRS grants the request, in whole or in part, the individual shall be informed of the acceptance of the request and provided access.
 2. When DMHMRS denies the request, in whole or in part, the individual shall be provided a written denial.
 3. When DMHMRS does not maintain or have on-site access to the requested PHI, that explanation shall be provided in the response to the requesting party.
 4. DMHMRS may extend, by no more than thirty (30) days, access to inspection. The extension shall be in writing to the individual requesting access and shall provide an explanation for the delay and the date of completion of the request. (THERE SHALL BE ONLY ONE EXTENSION FOR A REQUEST FOR ACCESS).
- B. Provisions by DMHMRS to access requested, in whole or in part to PHI shall be:
 1. Inspection or a copy, or both, of the PHI about them in designated record sets.

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2. In the form or format requested by the individual or in a readable hard copy form or format as agreed to by DMHMRS and the individual.
 3. In the form of a summary, in lieu of providing access to the PHI or an explanation of the PHI to which access has been provided when the individual agrees in advance to such a summary or explanation and any imposed fees.
- C. Denial by DMHMRS to access requested, in whole or in part to PHI shall comply with the following requirements.
1. DMHMRS shall, to the extent possible, give the individual access to any other PHI requested, after excluding the PHI as to which access has been denied.
 2. DMHMRS shall provide a timely, written denial in plain language and contain:
 - a. The basis for denial.
 - b. A statement of the individual's review rights, including a description of how the individual may exercise such review rights.
 - c. A description of how the individual may complain to DMHMRS or the Secretary, including the name or title and telephone number of the contact person or office.
 3. When DMHMRS does not maintain the PHI requested, and knows where the PHI is maintained, DMHMRS shall inform the individual where to direct the request for access.
 4. DMHMRS may deny an individual access without providing an opportunity for review when:
 - a. The PHI is contained in psychotherapy notes.
 - b. PHI is compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding.
 - c. Denial of access would meet the requirements of the Privacy Act.
 5. DMHMRS may deny an individual access and provide an opportunity for review when:
 - a. A licensed health care professional has determined, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person.

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- b. The PHI makes reference to another person and a licensed health care professional has determined, that the access requested is reasonably likely to cause substantial harm to such other person.
 - c. The request for access is made by the individual's personal representative and a licensed health care professional has determined that the access requested is reasonably likely to cause substantial harm to the individual or another person.
- 6. DMHMRS shall designate a licensed health care professional to review denied access when the individual has the right to have a denial review. The designee or reviewing official shall not have participated in the original decision to deny.
- D. DMHMRS may impose a reasonable cost-based fee, for requested copies of PHI or a summary or explanation of such information. The cost-based fee may only include:
 - 1. The cost of supplies for and labor of copying the PHI requested.
 - 2. Postage, when the information is requested to be mailed, and shall be sent as Certified Mail.
 - 3. Preparation of an explanation or summary of the PHI.
- E. This policy shall be reviewed and revised as necessary.